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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/27/2003

Randy Ulvenes

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10/05/2011

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EXAMINER

LAI, MICHAEL C

ART UNIT

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DELIVERY MODE

10/05/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/694,429	Applicant(s) ULVENES, RANDY	
	Examiner MICHAEL C. LAI	Art Unit 2457	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 September 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) ☒ Claim(s) 4-6, 13-19 and 26 is/are pending in the application.
- 5a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 4-6, 13-19, and 26 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/6/2011</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

1. This office action is responsive to communication filed on 9/6/2011.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/6/2011 has been entered.

Response to Amendment

3. The examiner has acknowledged the amended claims 4, 13, and 16, and new claim 26. Claims 4-6, 13-19, and 26 are pending.

Response to Arguments

4. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4, 5, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tso et al. (US 6,421,733 B1, hereinafter referred to as Tso), and in view of Banerjee et al. (US 2003/0187806 A1, hereinafter referred to as Banerjee).

Regarding claim 4, Tso discloses: In a communication system wherein web content is transmitted over a communication path from a content server to a client station [Fig. 3, Network Client 12] in response to a request from the client station, a method comprising the following functions carried out while the web content is in transit from the content server to the client station and has thus left the content server but has not yet arrived at the client station [col. 1, lines 25-40; Fig. 3 and col. 3, lines 8-44, received by transcoder 20 a reply to a request for a network object generated by a client device.]:

receiving the web content at an intermediation system in the communication path [col. 3, lines 8-30, received by transcoder 20 a reply to a request for a network object generated by a client device. Note that transcoder 20 is part of the network proxy, and the network proxy is the intermediation system in the communication path].

Tso teaches a proxy 36 at transcoding server 34 capable of changing content received from Internet 18 with network server 10 prior to returning it to a requesting network client 12 [see Fig. 1, 3; col. 3, lines 31-44]. Proxy 36 may embed additional instructions in the HTML prior to transmitting the associated data stream to network client 12 [see Fig. 3, col. 11, lines 3-18]. Tso does not disclose: the intermediation system (i.e., proxy 36) computing a size-based cost

to access the received web content; the intermediation system engaging in interstitial communication with the client station to receive user approval to pay the computed size-based cost; and after receiving the user approval, the intermediation system sending the web content along the communication path to the client station.

However, Banerjee discloses: In a communication system wherein web content is transmitted over a communication path from a content server to a client station, a method comprising the following functions carried out during transmission of the web content within the communication path, between the content server and the client station [see at least Fig. 1 and para. 0041, 0043, 0047, 0048]:

computing a size-based cost to access the web content [see at least abstract, determining a download cost for the second web page; para. 0060, 0065];

engaging in interstitial communication with the client station to receive user approval to pay the cost [see at least abstract, displaying the cumulative download cost for the second web page; para. 0060, 0065];
and

after receiving the user approval, sending the web content along to the client station [see at least para. 0024, 0054, user click].

It would have been obvious to a person with ordinary skill in the art at the time the invention was made to incorporate Banerjee's teaching into Tso's method for the purpose of extending Tso's transcoding capability to manage payment for web content by dynamically calculating and displaying the cost of downloading web content based on content size, thereby reaching agreement for payment with users before users receiving the requested web content [see the abstract].

Regarding claim 5, Tso and Banerjee disclose the method of claim 4, Banerjee further discloses wherein computing the size-based cost to access the web content comprises: multiplying a charging-rate by a size of the web content [see at least abstract, determining a download cost for the second web page; para. 0060, 0065]. See claim 4 for motivation.

Regarding claim 26, Tso and Banerjee disclose the method of claim 4, Banerjee further discloses wherein the communication path extends from the content server, over a packet-switched network, and through an access channel to the client station, the method further comprising: carrying out at least the adding within the access channel [Fig. 1, para. 0041, 0043, 0047, and 0048]. See claim 4 for motivation.

7. Claims 13-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Banerjee et al. (US 2003/0187806 A1, hereinafter referred to as Banerjee), and in view of Tso et al. (US 6,421,733 B1, hereinafter referred to as Tso).

Regarding claim 13, Banerjee discloses a communication system wherein web content is transmitted over a communication path from a content server to a client station, the web content defining a hyperlink to be presented by a browser running on the client station, the hyperlink pointing to referenced web content [see at least Fig. 1 and para. 0041, 0043, 0047, 0048], a method comprising:

during transmission of the web content within the communication path, between the content server and the client station [see at least Fig. 1 and para. 0041, 0043, 0047, 0048],

(i) computing a size-based cost to access the referenced web content [see at least abstract, determining a download cost for the second web page; para. 0060, 0065] and

(ii) adding an indication of the size-based cost into the web content, in conjunction with the hyperlink, such that the indication will be presented to a user when the web content is presented to the user [see at least abstract, displaying the cumulative download cost for the second web page; para. 0060, 0065].

Banerjee discloses the claimed invention except that the web content is transmitted in response to a request from the client station and the web content is in transit from the content server to the client station and received by an intermediation system before arriving at the client station. However, Tso teaches a proxy 36 at transcoding server 34 capable of changing content received from

Internet 18 with network server 10 prior to returning it to a requesting network client 12 [see Fig. 1, 3; col. 3, lines 31-44]. Proxy 36 may embed additional instructions in the HTML prior to transmitting the associated data stream to network client 12 [see Fig. 3, col. 11, lines 3-18].

It would have been obvious to a person with ordinary skill in the art at the time the invention was made to incorporate Tso's teaching into Banerjee's method for the purpose of providing a real time size-based content service by employing a transcoding server (an intermediation system) to dynamically calculate and add an indication of the size-based cost into the web content before the web content arriving at the client station in response to a request from the client station, thereby centralizing payment management for the web content service [see col. 1 line 59 through col. 2 line 5].

Regarding claim 14, Banerjee and Tso disclose the method of claim 13, Banerjee further discloses an access channel between content server and client station, and carrying out at least the adding within the access channel [Fig. 1, para. 0041, 0043, 0047, and 0048].

Regarding claim 15, Banerjee and Tso disclose the method of claim 13, Banerjee further discloses engaging in interstitial communication with the user to collect user-payment of the size-based cost for the referenced web content [see at least abstract, displaying the cumulative download cost for the second web page; para. 0060, 0065].

Regarding claim 16, Banerjee discloses a communication system wherein web content is transmitted over a communication path from a content server to a client station, a method comprising, during transmission of the web content within the communication path, the following functions:

receiving the web content [see at least abstract, downloading web content];

detecting a hyperlink within the web content, wherein the hyperlink points to referenced web content [see at least abstract, **second web page**];

determining a cost of the referenced web content based at least in part on a size of the referenced web content [see at least abstract, determining a download cost for the **second web page**; para. 0060, 0065];

adding into the web content, in conjunction with the hyperlink, an indication of the determined cost [see at least abstract, displaying the cumulative download cost for the second web page; para. 0060, 0065];
and

whereby the indication will be presented to a user when the web content is presented to the user, thereby giving the user an advanced notice of the cost of the referenced web content [see at least abstract, displaying the cumulative download cost for the second web page, taking

into account bandwidth cost, usage cost, and any user credits; para. 0060, 0065].

Banerjee discloses the claimed invention except that the web content is transmitted in response to a request from the client station and the web content is in transit from the content server to the client station and received by an intermediation system before arriving at the client station. However, Tso teaches a proxy 36 at transcoding server 34 capable of changing content received from Internet 18 with network server 10 prior to returning it to a requesting network client 12 [see Fig. 1, 3; col. 3, lines 31-44]. Proxy 36 may embed additional instructions in the HTML prior to transmitting the associated data stream to network client 12 [see Fig. 3, col. 11, lines 3-18].

It would have been obvious to a person with ordinary skill in the art at the time the invention was made to incorporate Tso's teaching into Banerjee's method for the purpose of providing a real time size-based content service by employing a transcoding server (an intermediation system) to dynamically calculate and add an indication of the size-based cost into the web content before the web content arriving at the client station in response to a request from the client station, thereby centralizing payment management for the web content service [see col. 1 line 59 through col. 2 line 5].

Regarding claim 17, Banerjee and Tso disclose the method of claim 16, Banerjee further discloses wherein the communication path comprises an access

channel between client station and a packet-switched network [Fig. 1, para. 0041, 0043, 0047, and 0048] the method comprising carrying out the functions within the access channel.

Regarding claim 18, Banerjee and Tso disclose the method of claim 16, Banerjee further discloses wherein determining the size-based cost comprises multiplying a charging rate by the size of the web content [para. 0065].

Regarding claim 19, Banerjee and Tso disclose the method of claim 16, Banerjee further discloses wherein the web content is defined by a set of markup language [para. 0023], and wherein adding the indication of the size-based cost in conjunction with the hyperlink comprises adding into the set of markup language [para. 0060], adjacent to the hyperlink, display text indicative of the size-based cost [para. 0062].

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tso and Banerjee as applied to claim 4, and in view of Kumar et al. (US 2003/0083041 A1, hereinafter referred to as Kumar).

Regarding claim 6, Tso and Banerjee disclose the method of claim 5, but fail to teach wherein computing the size-based cost to access the web content further comprises: selecting the charging rate based at least in part on a factor selected from the group consisting of (i) a service level of a user requesting the web content and (ii) a time of day. However, Kumar discloses computing the size-based cost is based on the user desired quality of service level [para 0045]. It would have been obvious to a person with ordinary skill in the art at the time

the invention was made to incorporate Kumar's teaching into Tso's and Banerjee's method for the purpose of providing various service levels by selecting the charging rate based on service levels of the users requesting the web content, thereby satisfying different users with different needs.

Conclusion

Examiner's Note: Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL C. LAI whose telephone number is (571)270-3236. The examiner can normally be reached on M-F 9:00 - 5:30 EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael C. Lai
30SEP2011

/MICHAEL C LAI/
Examiner, Art Unit 2457